

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

BLACK EMERGENCY RESPONSE  
TEAM, et al.,

*Plaintiffs,*

v.

GENTNER DRUMMOND, in his official  
capacity as Oklahoma Attorney General, et  
al.,

*Defendants.*

Case No. 5:21-CV-1022-G

Hon. Charles B. Goodwin

**PLAINTIFFS' MOTION FOR STATUS CONFERENCE**

In light of Black Emergency Response Team, et al., Plaintiffs' pending Motion for Preliminary Injunction (Dkt. No. 27) and Motion for Leave to Conduct Limited Discovery (Dkt. No. 102); OU Regents Defendants'<sup>1</sup> pending Motion to Dismiss (Dkt. No. 51) and Motion to Strike Affidavits of Black Emergency Response Team, University of Oklahoma Chapter of American Association of University Professors, and Marvin Lynn, Ph.D (Dkt. No. 59); Edmond Public School Defendant's<sup>2</sup> pending Motion to Dismiss (Dkt. No. 52); all Defendants' pending Motion to Strike New Evidence (Dkt. No. 72); and State Defendants'<sup>3</sup> Motion for Leave to File a Surreply (Dkt. No. 99) and Motion for Judgment on the Pleadings (Dkt. No. 106), Plaintiffs respectfully request that

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<sup>1</sup> Defendants 19-25

<sup>2</sup> Independent School District No. 12, Oklahoma County, Oklahoma

<sup>3</sup> Defendants 1-18

the Court schedule a status conference in this matter to discuss the status of the case and the pending motions. In support of this motion, Plaintiffs state:

1. On October 19, 2021, Plaintiffs brought a challenge to House Bill 1775, codified as Okla. Stat. tit. 70, § 24-157 (2021), (H.B. 1775), and its implementing regulations, codified as Okla. Admin. Code § 210:10-1-23, for violations of their constitutional rights (Dkt. No. 1).
2. On October 29, 2021, Plaintiffs filed a Motion for Preliminary Injunction (Dkt. No. 27), which was fully briefed on January 13, 2022 (Dkt. No. 66). This motion has been fully briefed and pending for nineteen (19) months.
3. Plaintiffs filed an Amended Complaint on November 9, 2021 (Dkt. No. 50).
4. On November 23, 2021, OU Regents Defendants and Edmond Public School Defendants respectively filed Motions to Dismiss Plaintiffs' Amended Complaint (Dkt. No. 51, 52), which were fully briefed on January 20, 2022 (Dkt. Nos. 71, 73). These motions have been fully briefed and pending for nineteen (19) months.
5. On December 16, 2021, OU Regents Defendants filed a Motion to Strike Affidavits of Black Emergency Response Team, University of Oklahoma Chapter of American Association of University Professors, and Marvin Lynn, Ph.D (Dkt. No. 59), which were filed as exhibits in support of Plaintiffs' Motion for Preliminary Injunction (Dkt. Nos. 27-3, 27-4, 27-10). This motion was fully briefed on January 13, 2022 (Dkt. No. 69) and has been pending for nineteen (19) months.

6. On January 20, 2022, all Defendants filed a Motion to Strike New Evidence (Dkt. No. 72), which they allege was included in Plaintiffs' Preliminary Injunction Reply exhibits (Dkt. Nos. 66-1, 66-2, 63-3). This motion was fully briefed on February 2, 2022 (Dkt. No. 74) and has been pending for eighteen (18) months.
7. In the fall of 2022, Plaintiffs submitted Notices of Supplemental Authority (Dkt. No. 79, 100) informing the Court of federal court decisions in other similarly situated cases. In addition, Plaintiffs filed their Supplemental Submission in Support of Their Motion for Preliminary Injunction (Dkt. No. 83), notifying the Court that Defendant Oklahoma State Board of Education downgraded the accreditations of Tulsa and Mustang Public Schools for alleged violations of H.B. 1775, pursuant to the Board's implementing regulations. On September 21, 2022, the State Defendants filed a Motion for Leave to File a Surreply to Plaintiffs' Supplemental Submission (Dkt. No. 99). This motion has been pending for over eleven (11) months.
8. On January 4, 2023, Plaintiffs filed a Motion for Leave to Conduct Limited Discovery (Dkt. No. 102), which was fully briefed on February 1, 2023 (Dkt. No. 108). This motion has been fully briefed and pending for over six (6) months.
9. On January 25, 2023, State Defendants filed a Motion for Judgment on the Pleadings (Dkt. No. 106), which was fully briefed on March 3, 2023 (Dkt. No. 112). This motion has been fully briefed and pending for over five (5) months.
10. Defendants do not object to the relief requested.

11. Plaintiffs and other public school teachers and students are just beginning the 2023 academic year, the third school year under H.B. 1775 (Dkt. No. 27-1), and their need for clarity is as urgent as ever. Every day, Oklahomans continue to be subject to H.B. 1775's vague, overbroad, and viewpoint discriminatory restrictions on classroom discussions of "race and sex." Okla. Stat. tit. 70, § 24-157 (2021).

Oklahoma teachers are obligated to self-censor their instruction, removing lessons related to racism, sexism, and implicit bias for fear of incurring the harsh penalties of the law's implementing regulations. And as a result, Oklahoma students continue to be deprived of access to curricula reflecting diverse perspectives and lessons related to systemic power and oppression, information that is crucial for building analytical skills and fostering cognitive development.

Plaintiffs respectfully request a status conference to address the status of the case and motions pending before the Court.

Respectfully submitted,

/s/ Megan Lambert

Megan Lambert

AMERICAN CIVIL LIBERTIES UNION

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### **CERTIFICATE OF SERVICE**

I hereby certify that on August 28, 2023, I electronically filed the foregoing Motion for Status Conference with the Clerk of Court via the Court's CM/ECF system, which effects service upon all counsel of record.

Respectfully submitted,

/s/ Megan Lambert

Megan Lambert

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